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07-6-2

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CENTER ON RACE POVERTY & THE ENVIRONMENT
CENTRAL VALLEY AIR QUALITY COALITION STEERING COMMITTEE
COALITION FOR CLEAN AIR ♦ COMMUNITIES FOR CLEAN PORTS
CONCERNED RESIDENTS AGAINST AIRPORT POLLUTION
CONCERNED RESIDENTS OF LOCKWOOD VALLEY, LOS PADRES FOREST
EARTH DAY LOS ANGELES ♦ FRESNO METRO MINISTRY
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LONG BEACH ALLIANCE FOR CHILDREN WITH ASTHMA
MEDICAL ADVOCATES FOR HEALTHY AIR
MERCED STOP WAL-MART ACTION TEAM ♦ MOMS CLEAN AIR NETWORK
NATURAL RESOURCES DEFENSE COUNCIL ♦ PEOPLE FOR PARKS
PLANNING & CONSERVATION LEAGUE ♦ SIERRA CLUB OF CALIFORNIA
UNION OF CONCERNED SCIENTISTS

June 13, 2007

Via On-line Submission and Facsimile

Chairman Sawyer and Members of the Board
California Air Resources Board
1001 I St.
Sacramento, CA 95812
Facsimile: 916-323-2393

Re: Comments on 2007 SIP

Dear Chairman Sawyer and Members of the Board:

We write on behalf of a statewide coalition of public health, environmental and environmental justice groups to express our serious concerns about the 2007 State Implementation Plan ("SIP") for the San Joaquin Valley and South Coast Air Basins. *Specifically, we respectfully request that the Board direct staff to significantly strengthen the plan by adding stronger and more immediate clean air measures before bringing it to the Board for approval.* While we applaud the California Air Resources Board ("CARB") for work to reduce harmful air pollution over the years, we are concerned that CARB has assembled an inadequate plan to ensure clean air in a timely

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manner for the South Coast and San Joaquin Valley. A strong SIP is crucial to transforming the Governor's promise to cut pollution in half by 2010 into reality. The health of millions of Californians depends on strong and swift action by CARB. In fact, CARB estimates the health costs associated with air pollution in California to be close to \$50 billion per year. Further, dirty air has a huge negative impact on the economy statewide. For this reason, the following improvements must be made to the 2007 SIP.

- **The State Must Not Bump Up the South Coast and San Joaquin Valley Air Basins to Extreme Status.**

We continue to believe that both these regions can attain federal health-based air quality standards long before the 11 year delay (4 year for the South Coast) created by "bumping up" to extreme status. Unfortunately, the state plan for both the San Joaquin and South Coast 2007 SIP are not designed to reach this goal, instead relying on a large percentage of "black box" undefined measures under section 182(e)(5) of the federal Clean Air Act ("CAA"). We find it instructive that the CAA does not permit the State to rely on "black box" measures to attain the PM_{2.5} standard. Thus, it is our understanding that CARB, the South Coast Air Quality Management District ("SCAQMD"), and the Southern California Association of Governments ("SCAG") are working to find additional reductions to achieve the PM_{2.5} standard in the South Coast on time. This is not the case for the ozone strategy for the San Joaquin Valley and South Coast because CARB and the Air Districts are using the "black box" as an escape hatch to avoid making difficult but necessary pollution control policy decisions. Further, CARB continues to fail to exercise its authority to review and ensure the Districts' Air Quality Management Plans ("AQMP") are strengthened. If CARB delays attainment of health-based air quality standards for ozone, Californians will continue to pay with their health including: decreased lung capacity in our children, increased incidence of asthma, emergency room visits, and premature death.

- **The "Black Box" is Entirely Too Large.**

In our view, reliance on "black box" measures offers the State and its residents an unfavorable tradeoff. While use of these undefined "black box" reductions might make it easier for a District or CARB to receive a SIP approval in the short term, in reality, it is a deferral of District/CARB responsibility to achieve the federal standards, during which time residents of both regions will continue to breathe dangerously high levels of air pollutants. Moreover, the 2007 AQMP for the South Coast notes that the Basin will exceed the federal 1-hour ozone standard by 30% in 2010.¹ This is particularly relevant in that the District and CARB relied on "black box" measures in its former SIP revisions for the one hour ozone standard, but these commitments have not come to fruition. We do not have confidence in "black box" measures because the District and CARB's track record using this approach has not delivered the pollution reductions that were committed to. It is more urgent than ever that the SCAQMD, SJVAPCD, and CARB strengthen the control measures to ensure attainment under their current attainment status.

¹ 2007 South Coast Air Quality Management Plan, at ES-1.

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▪ **CARB Must Include New Measures and Strengthen Existing Measures to Achieve Additional Reductions.**

The 2007 SIP does not include all feasible measures, and several of the measures in the plan must be strengthened to achieve additional emissions reductions. Moreover, CARB continues to rely on more polluting diesel technologies rather than requiring the use of cleaner technologies and fuels to reach attainment sooner. We recommend that CARB achieve additional reductions from the following measures:

- **Cleaner In-Use Off-Road Equipment**—CARB must work to strengthen reductions from in-use off-road equipment because of its great impact on air quality in California.
- **Cleaner In-Use Heavy Duty Truck Rule**—Given that heavy duty trucks are projected to account for a large percentage of NOx and PM2.5 emissions in the South Coast and San Joaquin Valley, it is imperative that CARB strengthen its current rule design to achieve additional reductions. Also, continuous remote monitoring of On Board Diagnostics ("OBD") systems of all 2010 and later heavy duty trucks should be required. We also want to see a SIP commitment to a much more robust on road monitoring and enforcement program for non-OBD equipped heavy duty trucks.
- **Smog Check**—given the past history of Bureau of Automotive Repair ("BAR") compliance with SIP requirements, we believe the SIP should provide for greater CARB monitoring, evaluation and enforcement of implementation of the measures by BAR. For example, regular progress reports to CARB by BAR should be required. Vague promises to meet tonnage goals are simply inadequate given the potential size of the shortfall if performance is lacking. In addition, CARB can accelerate use of remote monitoring of OBD systems to ensure that vehicle owners fix faulty emissions systems. California is not fully using the capability provided by OBD systems to manage emission control failures on vehicles not subject to smog check. Moreover, since there is a proven methodology to measure PM, smog check needs to be expanded to cover in-use emission standards for PM for both gas and diesel light and medium duty vehicles.
- **CARB needs to commit to developing an in-use monitoring emissions standard for PM for heavy-duty vehicles.** In subsequent versions of the SIP, CARB should quantify the benefits that could be achieved through the desperately needed in-use monitoring measure.
- **Expanded Passenger Vehicle Retirement**—CARB's proposal to increase the number of vehicles retired each year to 60,000 when our ultimate target is on the order of 2.5 to 3.7 million vehicles is insufficient.²
- **Cleaner In-Use Agricultural Equipment**—It is completely unacceptable that CARB has not committed to any enforceable reductions from

² The SIP must also show how the proposed increases in passenger vehicle retirement will be above and beyond natural fleet turnover.

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agricultural equipment. Instead, ARB proposes to adopt an inventory that relies on voluntary fleet-turnover to achieve a 72% reduction in NOx by 2023. This "inventory" is the functional equivalent of a proposed unenforceable strategy that relies on voluntary actions. ARB should not rely on an inventory sleight of hand to achieve such massive "reductions." Rather, ARB should amend the statewide strategy to commit to specific reductions now. Waiting for the PM2.5 plan to decide upon reductions necessary to meet PM2.5 reduction goals ignores the state's duty to regulate this category as a part of the ozone attainment strategy.

- Consumer Products—We remain frustrated by the limited progress CARB has made in addressing pollution from consumer products, one of the largest sources of pollution in California. We are troubled by CARB's apparent unwillingness to sufficiently regulate this category to achieve clean air expeditiously. Further, the consumer products measures described in the SIP do not provide the specificity necessary to show how CARB will achieve the total estimated ROG reduction of 30-40 tons per day statewide "in the 2008 to 2014 timeframe." It appears also that CARB will rely on a relative reactivity approach to secure further reductions. We are skeptical about this approach because it could result in promoting or even requiring the use of more toxic materials in place of less toxic alternatives.
- Pesticides—Many signatories to this letter will submit comments on the actual content of the Department of Pesticide Regulation's proposed regulations to satisfy the Court order in *El Comité para el Bienestar de Earlilmart v. Helliker*. However, we strongly object to the proposal in Appendix H to amend the 1994 Ozone SIP to relax the pesticide commitment in Ventura County and substituting already-achieved reductions from motor vehicles. Section 110(l) of the Clean Air Act prohibits California from relaxing the commitment because the net result is 1 ton/day less VOC reductions in Ventura as a result of the proposal in Appendix H. After letting the issue slide for 10 years and being sued to comply with the 1994 Ozone SIP, ARB's proposal here to change that SIP in the face of a court order sends the wrong message to the public about CARB's commitment to achieve air quality standards.
- Marine Vessels – CARB does not express a clear commitment to use 1,000 ppm sulfur content fuel in both auxiliary and main engines by 2010 in order to achieve the assumed emission reductions. Further, CARB does not mention its ability to transition to even lower sulfur fuels and the potential for even greater emission reductions over the ensuing decade from this sector. Also, CARB continues to rely on a weak dockside power timeline which could be expedited to achieve significant NOx and PM reductions in the short and mid term.
- New Emission Standards for Recreational Boats—While we are pleased to see CARB committing to creating new standards for recreational boats, the commitments must be enhanced for both NOx and ROG. Further, the

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proposed start date of 2013 is inadequate and no specificity is provided on addressing evaporative emissions, which account for a quarter of the ROG emissions from this source category.

- o California has a number of programs with aggressive goals with respect to climate, lower carbon fuels, and advanced clean vehicles. The state needs to use the SIP to ensure that synergies across these programs are being maximized to achieve the greatest pollution reductions.

▪ **CARB's Proposed Use of "Black Box" Measures in the 2007 SIP Fails to Meet the Requirements of the Clean Air Act.**

CARB has not lived up to the bargain where it is trading additional years of unhealthy air in the South Coast and the San Joaquin Valley in exchange for additional time for the development of new pollution control technologies. The vague commitments within the 2007 SIP are woefully insufficient. In fact approval of the attainment demonstration cannot occur unless the Section 182(e)(5) measures comply with the CAA, including requirements that the measures:

- (1) Contain sufficient definition;
- (2) Contain schedules for development of the new technologies;
- (3) Contain commitments for funding;
- (4) Depend on development of new technologies; and
- (5) Are accompanied by enforceable commitments to develop and adopt necessary contingency measures.³

The most recent version of the 2007 SIP only appears to comply with requirement number (5). The generalized discussion on pages 55 through 57 provides us little confidence in the efficacy of CARB complying with the CAA to push along development of "black box" measures. Finally, we remind CARB that the "black box" is reserved for technologies yet to be developed. CARB cannot include emissions reductions in the "black box" that are achievable through currently available technology that is currently available. The Board should demand that staff cure the defects in these long term measures.

▪ **CARB Must Include Legally Adequate Contingency Measures.**

Instead of actually providing contingency measures as required under the CAA,⁴ CARB has simply noted that it will rely on already adopted measures to serve as contingency measures.⁵ CARB makes the illogical assumption that if it fails to meet the Reasonable Further Progress⁶ or attainment milestones under the current regulatory framework, it

³ See CAA § 182(e)(5), 42 U.S.C. § 7511a(e)(5); 62 Fed.Reg. 1150, 1179 (Jan. 8, 1997).

⁴ 42 U.S.C. § 7502(e)(9).

⁵ 2007 SIP App. D at 3.

⁶ The Clean Air Act defines "Reasonable Further Progress" as "such annual incremental reductions in emissions of the relevant air pollutant... or may reasonably be required by the Administrator for the

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simply has to do nothing as a contingency plan. Given this clearly erroneous interpretation of the law, the staff must develop contingency measures if a milestone is missed. For example, operational control measures, like CTY-03 in the South Coast AQMP, provide a good and strong mechanism to push attainment. Thus, the Board must direct the staff to write sufficient contingency measures that will apply should California not meet its RFP or attainment milestones.

We look forward to continue working with staff and the Board in developing a viable plan to achieve clean air.

Sincerely,



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Project Attorney
Natural Resources Defense Council



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Research and Policy Manager
Coalition For Clean Air

On Behalf of:

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American Lung Association
Of California

Jose Carmona
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Jim Stewart
Earth Day Los Angeles

Jenny Saklar
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purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." 42 U.S.C. 7501. The percentage reductions needed depends on nonattainment classification.

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